

REMARKS

The application contains 13 claims, where claims 1 and 7 are independent. None of the claims are amended and no new claims are added.

Claims 1-13 stand rejected under 35 U.S.C. §102 as being anticipated by Pagel. (US 6,214,362) Applicants respectfully submit that the Examiner has not made out a *prima facie* case of anticipation for the following reasons. Reconsideration and allowance of the claims is respectfully requested.

Claim 1

Claim 1 defines "An abrasive pad comprising: an abrasive surface; and an elastomer or sponge material backing the abrasive surface and having an end remote from the abrasive surface; wherein the elastomer or sponge material is formed with two slits starting at edges of the spongy material and oriented substantially parallel to the abrasive surface near the remote end of the spongy material..." (emphasis added).

The Examiner stated that in page teaches the abrasive surface of claim 1 at col. 8, lines 47-67; col. 9 line 50 to col. 10, line 6; Fig. 3C. Applicants respectfully disagree and submit that Page not only does not teach an abrasive surface, it actually teaches away from using such surface.

Turning first to the section at col. 8, lines 47-67, there is no mention of any possible abrasive properties of the outer layer, which applicants assume the Examiner has identified as the abrasive layer. In fact the entire section preceding the quoted section mentions that the outer layer is soft no less than five times and also that the layer is conforming. Neither of these characteristics is consistent with an "abrasive" surface. The fact that it removes "low tension substances from the skin" does not make the surface abrasive, since these substances are removed because the materials have a low surface tension (col. 8, lines 56-67. The patent describes the pad as removing these substances "without removing makeup" (col. 8, line 2) and for "applying new makeup" col. 8, line 3. Neither of these function could conceivable be performed with an abrasive pad.

Furthermore, the section cited by the Examiner gives the hardness measured using Shore A 90 which is the measurement scale used for soft elastomers and medium rubbers as well as for felt.

In summary, applicant submits that the cited section in col. 8 (and the uncited sections referred to above) do not teach an abrasive surface, and actually teach away from using an abrasive surface, since such a surface would remove existing makeup and would not be suitable for applying makeup.

Turning to the section at col. 9, line 50 to col. 10, line 6, this section continuously refers to the "porous membrane" as being soft and conformable (see for example col. 10, lines 51). In fact, the invention is contrasted with the prior art which is said to be "relatively hard, non-conformable, stiff and inflexible and abrasive." (col. 10, lines 63-64). This is emphasized again at the later portion of the cited section at col. 11, lines 1-3, referring to prior art pads.


Fig. 3C shows a holder for holding the conformable pad, but there is no teaching of this in conjunction with a pad with an abrasive surface.

As to claim 7, the section referred to by the Examiner does not teach any ring at all. It refers to additional limitations of the prior art. It says nothing about any ring, either in the prior art or in the Page pad(s). In fact, a glance at the drawings shows that there are no rings at all and no material surrounding the purported "abrasive" surface (actually a soft conforming surface) of Page. Fig. 3A-3C, and 4-6 shows nothing past the edge of the conforming surface. Figs. 7A and 7B show the conforming surface turned up at the edge. It is difficult to see how the conforming surface could be considered as both the abrasive surface and the ring of claim 7. Similarly in Fig. 8B, the edge is described as being turned up (col. 12, line 65 to col. 13, line 4).

Applicants submit that the dependent claims are similarly not *prima facie* anticipated, since they depend for claims 1 or 7. Applicants further submit that, in view of the interpretation of the prior art given above, at least some of the dependent claims contain subject matter that further distances the Page reference from the claims.

Applicants submit that the application is now in order for allowance. If, however, the Examiner is not convinced and the Examiner is of the opinion that a telephone conversation may forward the present application toward allowance, applicant respectfully requests that the Examiner call the undersigned at 1 (877) 428-5468. Please note that this is a direct toll free number in the US that is answered in the undersigned's Israel office. Israel is 7 hours ahead of Washington.

Respectfully submitted,
Zion Azar et al.


Paul Fenster
Reg. No. 33,877

October 4, 2007